



**US Army Corps
of Engineers®**

Nashville District

Public Notice

Public Notice No. **04-23**

Date: **April 5, 2004**

Application No. **2004-00019**

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
(Attn: Kathleen J. Kuna)
3701 Bell Road, Nashville, TN 37214
kathleen.j.kuna@usace.army.mil

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
AND
STATE OF ALABAMA

SUBJECT: Proposed Deposition of Fill Material into Wetlands and two stream crossings on unnamed tributaries to the Tennessee River at Mile 321.0 R, for the construction of the Walden Preserve Subdivision in Madison, Madison County, Alabama

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army Permit pursuant to **Section 404 of the Clean Water Act** (CWA). Before a permit can be issued, the Alabama Department of Environmental Management, pursuant to Section 401(a) (1) of the CWA, must provide certification that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification.

APPLICANT: **Walden Land Company, Inc.**
 3776 Sullivan Street
 Madison, AL 35758
 (256) 772-8030

LOCATION: Wetlands adjacent to unnamed tributaries of Bradford Creek, NW of the Balch Road and Gillespie Road Intersection. Bradford Creek is a tributary of Barren Fork Creek, a tributary to the Tennessee River at Mile 321.0, Right Bank. USGS Quad Map Madison, AL; Latitude N34° 43.733', Longitude W86° 46.069'

DESCRIPTION: The proposed action is the deposit of fill material into 2.15 acres of riparian wetlands and two road crossings on unnamed tributaries in the headwaters of Bradford Creek. A wetland delineation, prepared by Robinsong Ecological Restorations, Huntsville, AL, was submitted with the permit application. The Corps of Engineers verified the findings of the delineation by letter dated January 9, 2004. There are a total of 39.32 acres of forested jurisdictional wetlands on the property. The sizing of the pipes for the stream crossings are designed to utilize the existing wetlands and retain

heavy rainfall for a short period of time thereby eliminating the need for further storm water detention. The stream banks adjacent to the headwalls would be reinforced with native vegetation using bioengineering techniques to promote wildlife habitat and prevent erosion. If determined to be practicable, bottomless culverts would be used to further facilitate the migration of aquatic life.

The applicant proposes to mitigate for the loss of the 2.15 acres of wetlands by the purchase of 4.3 wetland credits at (a 2:1 ratio) from the Flint Creek Wetland Mitigation Bank located within the same watershed in Morgan County, AL. In addition, the remaining 37.17 acres of wetlands would be placed in a Stream & Wetlands Conservation Area and secured for perpetuity with a permanent deed restriction. This conservation area would remain the property of the applicant or the Homeowners Association and they would retain all other rights to the area such as recreation and subsurface resources. Any area where a stream channel comes within ten-feet of a residential lot would have a riparian buffer that is protected with a deed restriction on that lot. The buffer would be planted with native hardwood tree species and designated as part of the conservation area. The preserved wetland acres would be contiguous with an additional 30 acres of wetlands that were dedicated by the same applicant in a permanent easement for the existing Walden Subdivision in 1999, creating a total of 73.36 acres of preserved wetlands. Multiple bottomless culverts under the new road crossings would maintain hydrology to both Betts Spring Branch and the new lake. Plans of the proposed work are attached to this notice.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement

pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

An Environmental Assessment will be prepared by this office prior to a final decision concerning issuance or denial of the requested Department of the Army Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the proposed work will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time. Other federal, state, and/or local approvals required for the proposed work are as follows:

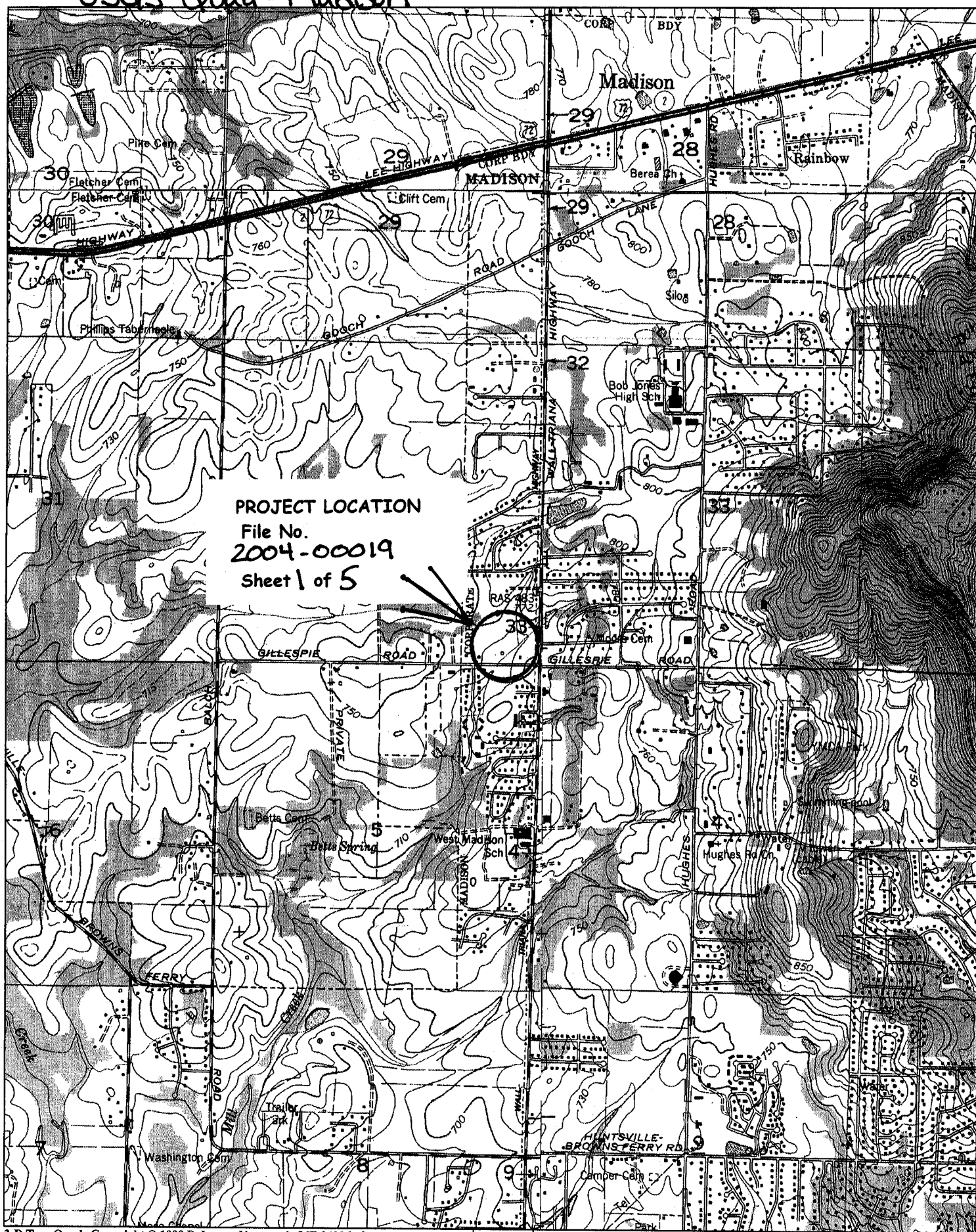
Water quality certification from the state of Alabama Department of Environmental Management (ADEM) in accordance with Section 401(a)(1) of the CWA.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received in this office on or before May 4, 2004 will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: Kathleen Kuná, at the above address, telephone (615) 369-7506.

It is not necessary to comment separately to ADEM since copies of all comments will be sent to them and will become part of their record on the proposal. However, if comments are sent to ADEM can be sent directly to Mitt Walker, P.O. Box 301463, Montgomery, AL 36130, telephone (334) 394-4302.

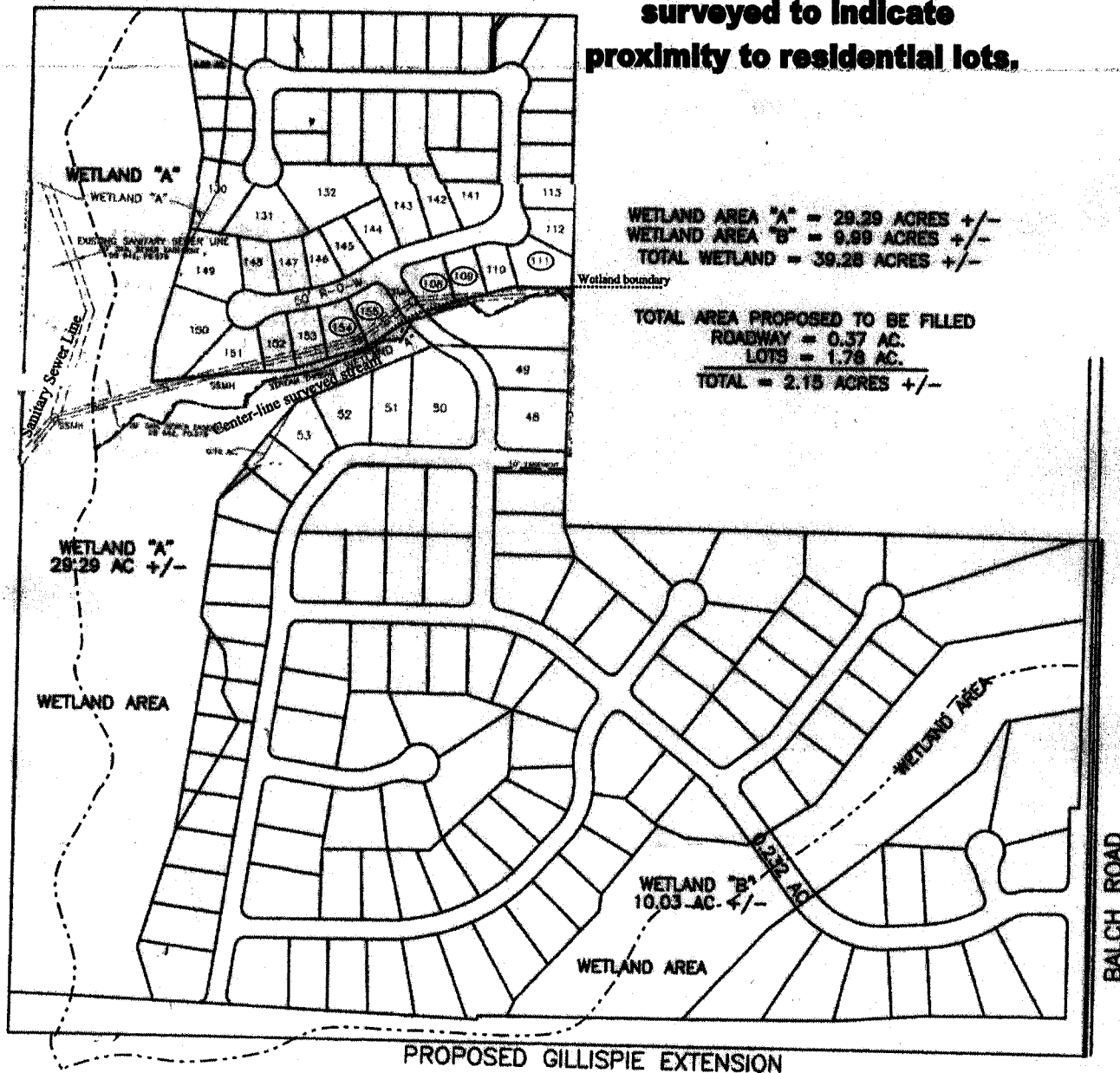
USGS Quad - Madison



Any area where the stream channel comes within 10' of a residential lot will have a riparian buffer that is protected with a deed restriction on that residential lot. A new survey was completed March 8, 2004 to determine which lots would require this added deed restriction; the findings include lots 111, 109, 108, 155 & 154 as indicated below. The buffer area will be planted with native hardwood tree species and designated as part of the Conservation Area.

WALDEN RESERVE

**Center line of stream
surveyed to indicate
proximity to residential lots.**



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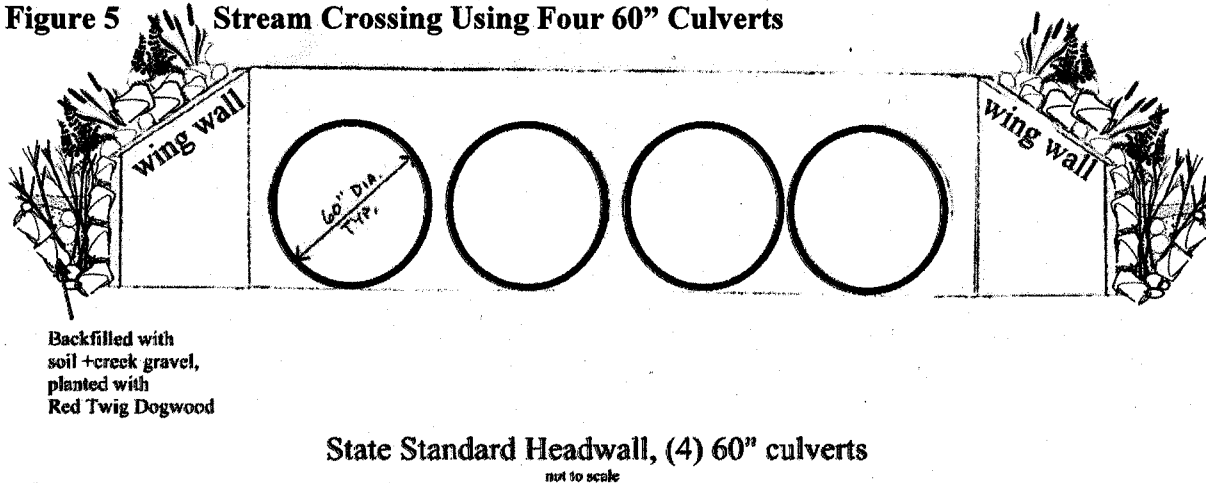
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Subdivision Layout & Proposed Wetlands Impact

Of the 39.50 acres of wetlands on the site, 2.15 acres (93,634 SF) are proposed to be filled leaving 37.35 acres to be preserved in a perpetual conservation easement. This wetland will be preserved in perpetuity with the contiguous 30 acres dedicated by the same applicant in a permanent conservation easement for the existing Walden Subdivision (1999) securing a large riparian system.

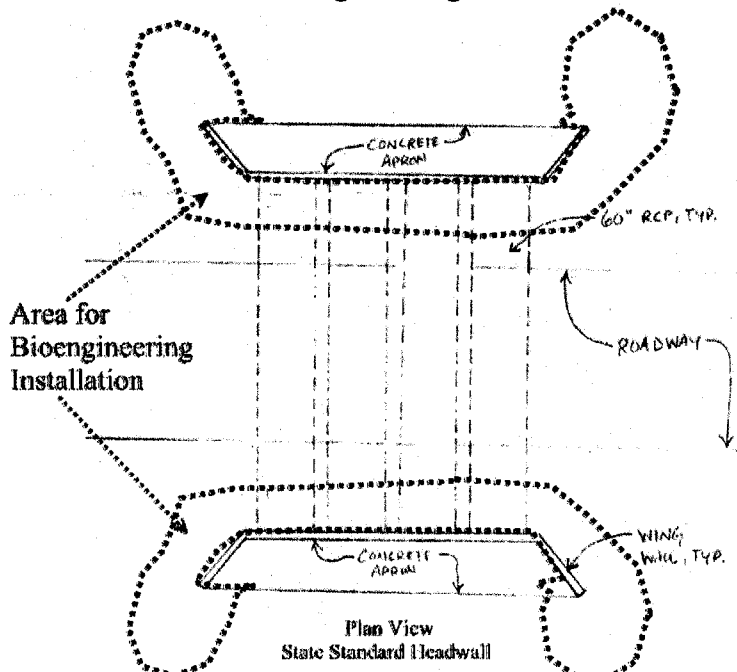
There are three streams, tributaries to Bradford Creek, within the boundaries of the wetlands. Two road crossings are proposed to allow access to otherwise land-locked acreage. The first crossing, near the main entrance to the Subdivision will cross the unnamed tributary using a sloped paved headwall with four (4) 60" pipes each 102 feet long (**Figure 5**). The sizing of these pipes are such that heavy rainfall will be detained on the site for short periods thereby eliminating the need for further stormwater detention and preventing backed up flow from leaving the wetlands area.

Figure 5 Stream Crossing Using Four 60" Culverts



The streambank adjacent to the headwall will be reinforced with native vegetation using bioengineering techniques to promote wildlife habitat and prevent erosion as illustrated in Figure 6. The total impact for this stream crossing is 0.232 acres.

Figure 6 Area for Bioengineering Installation



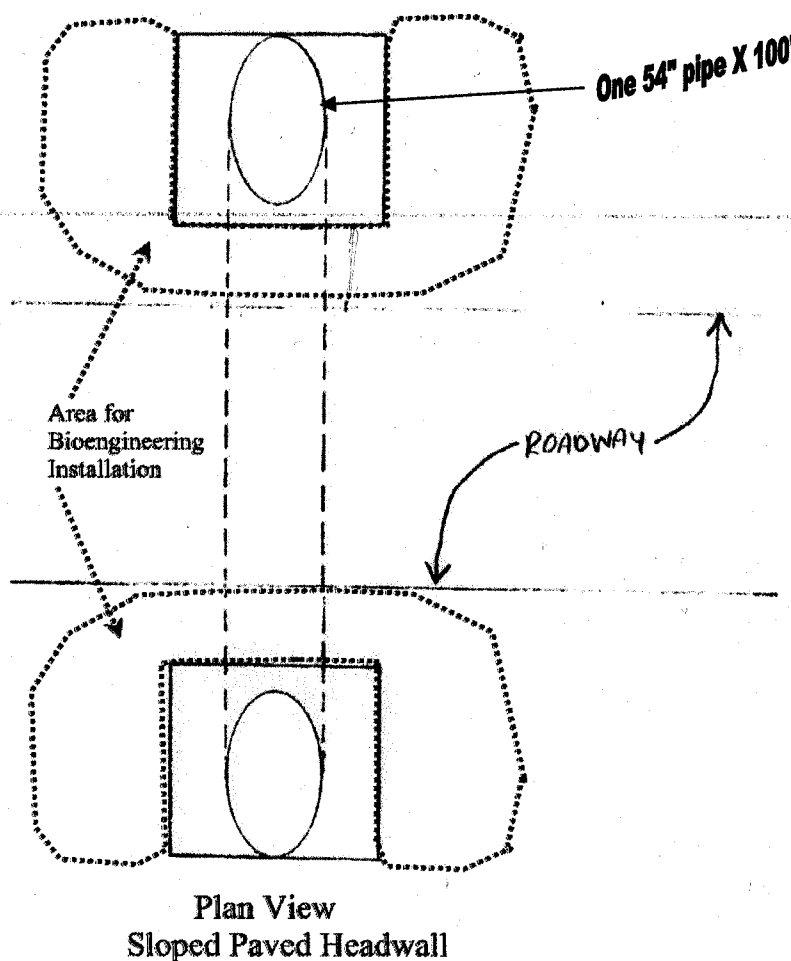
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The second stream crossing is a much smaller unnamed tributary requiring only one 54" pipe within the sloped paved headwall (**Figure 7**). The same bioengineering techniques will be utilized to prevent erosion and promote wildlife habitat at the stream crossing. Total impact for this stream crossing is 0.14 acres.

Figure 7 Stream Crossing with One 54" Pipe

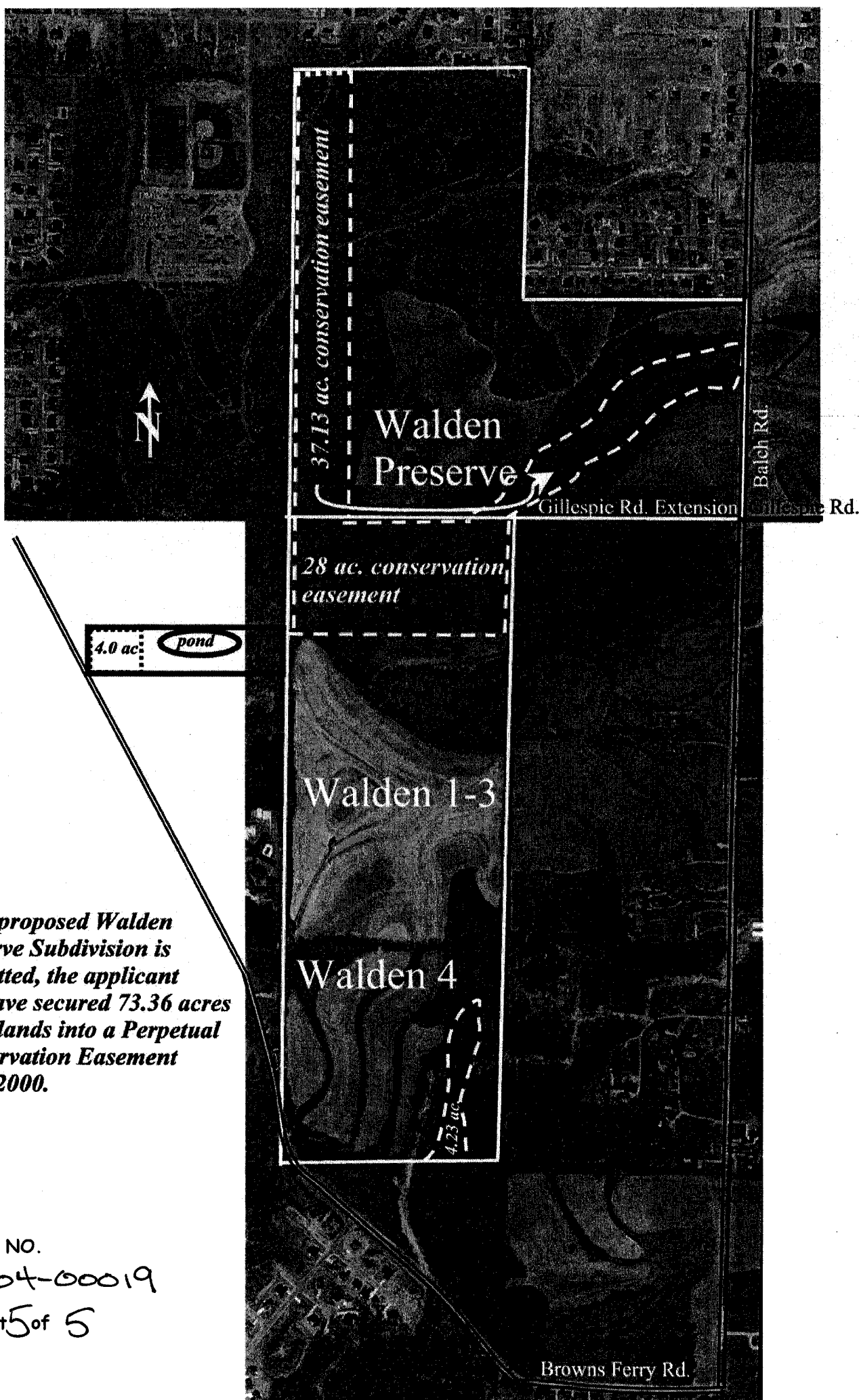


For mitigation of these proposed impacts, the applicant proposes to purchase credits at a 2:1 ratio, within the same watershed, from the Flint Creek Wetland Mitigation Bank [HUC 06030002], for a total of 4.3 credits as well as preserve 37.35 acres of wetlands/stream habitat in a perpetual conservation easement.

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If the proposed Walden Preserve Subdivision is Permitted, the applicant will have secured 73.36 acres of wetlands into a Perpetual Conservation Easement since 2000.

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